

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PROPERTY INSURANCE POLICY MUST INSURE AGAINST LOSS CAUSED BY THE ILLEGAL PRODUCTION OF METHAMPHETAMINE ON THE PROPERTY BY A PERSON OR PERSONS OTHER THAN AN INSURED WITHOUT THE KNOWLEDGE OF AN INSURED; REQUIRING THE FORFEITURE OF CERTAIN PROPERTY USED IN THE ILLEGAL PRODUCTION OF METHAMPHETAMINE AND THE DISTRIBUTION OF THE PROCEEDS OF THE SALE OF THE FORFEITED PROPERTY TO PROPERTY OWNERS INCURRING A LOSS BECAUSE OF THE ILLEGAL PRODUCTION OF METHAMPHETAMINE ON THE PROPERTY; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 17-7-502, 44-12-103, AND 44-12-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Loss caused by illegal production of methamphetamine. Each property insurance policy must insure against loss caused by the illegal production of methamphetamine on the property by a person or persons other than an insured without the knowledge of an insured.

NEW SECTION. Section 2. Disposition of proceeds of sale -- methamphetamine production offenses. (1) If property is seized, forfeited, and sold under the provisions of this chapter in connection with an offense involving the illegal production of methamphetamine, the net proceeds of the sale must be distributed to any holders of security interests who have presented proper proof of their claims, up to the amount of their interests in the property, and any remaining net proceeds must be deposited in the account created in subsection (2).

(2) There is an account in the state special revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of environmental quality to reimburse the owners of real property for losses incurred by the illegal production of methamphetamine on the property without the knowledge of the owner.

(3) The department of environmental quality shall adopt administrative rules establishing procedures for the use of the money in the account created in subsection (2) to reimburse an owner of real property who

1 makes a written claim to the department for reimbursement for losses incurred by the illegal production of
2 methamphetamine on the property without the knowledge of the owner. The rules must include provisions for
3 a claims procedure, a hearing for a claimant, and determining whether losses have occurred and the types and
4 amounts of the losses. An owner is not entitled to reimbursement to the extent that the owner has been
5 reimbursed by insurance proceeds or by money from any other source.

6
7 **Section 3.** Section 17-7-502, MCA, is amended to read:

8 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
9 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
10 the need for a biennial legislative appropriation or budget amendment.

11 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
12 of the following provisions:

13 (a) The law containing the statutory authority must be listed in subsection (3).

14 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
15 appropriation is made as provided in this section.

16 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
17 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
18 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241;
19 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
20 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631;
21 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; [section 2]; 44-13-102; 50-4-623;
22 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518;
23 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

24 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
25 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
26 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
27 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
28 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
29 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
30 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,

1 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
2 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
3 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
4 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December
5 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

6
7 **Section 4.** Section 44-12-103, MCA, is amended to read:

8 **"44-12-103. When property may be seized.** (1) A peace officer who has probable cause to make an
9 arrest for a violation of Title 45, chapter 9, probable cause to believe that a conveyance has been used or is
10 intended to be used to unlawfully transport a controlled substance, or probable cause to believe that a
11 conveyance has been used to keep, deposit, or conceal a controlled substance shall seize the conveyance so
12 used or intended to be used or any conveyance in which a controlled substance is unlawfully possessed by an
13 occupant. ~~He~~ The peace officer shall immediately deliver a conveyance that ~~he~~ the peace officer seizes to the
14 offices of ~~his~~ the peace officer's law enforcement agency, to be held as evidence until forfeiture is declared or
15 release ordered.

16 (2) All property subject to forfeiture under 44-12-102 may be seized by a peace officer under a search
17 warrant issued by a district court having jurisdiction over the property, except that the property must be seized
18 if there is probable cause to believe that the offense involves the illegal production of methamphetamine. Seizure
19 without a warrant may be made if:

20 (a) the seizure is incident to an arrest or a search under a search warrant issued for another purpose
21 or an inspection under an administrative inspection warrant;

22 (b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a
23 criminal proceeding or a forfeiture proceeding based on this chapter;

24 (c) the peace officer has probable cause to believe that the property is directly or indirectly dangerous
25 to health or safety; or

26 (d) the peace officer has probable cause to believe that the property was used or is intended to be used
27 in violation of Title 45, chapter 9, or in violation of Title 45, chapter 10, part 1, except that the property must be
28 seized if the peace officer has probable cause to believe that the offense involves the illegal production of
29 methamphetamine."

1 **Section 5.** Section 44-12-206, MCA, is amended to read:

2 **"44-12-206. Disposition of proceeds of sale.** (1) ~~Whenever~~ Except as provided in [section 2], if
3 property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be
4 distributed as follows:

5 (a) to the holders of security interests who have presented proper proof of their claims, if any, up to the
6 amount of their interests in the property;

7 (b) the remainder, if any, to the county treasurer of the county in which the property was seized, who
8 shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as
9 provided in subsections (1)(c) through (1)(e);

10 (c) if the property was seized within the corporate limits of a city or town by a law enforcement agency
11 of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a drug
12 forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and
13 (1)(e);

14 (d) if the property was seized by an employee of the state, the remainder, if any, is allocated as provided
15 in subsection (3), except as provided in subsection (1)(e); and

16 (e) if the property was seized as a result of the efforts of more than one law enforcement agency, the
17 remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the
18 agencies' expenses of investigation, as determined by the attorney general.

19 (2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account
20 must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for
21 drug laws enforcement and education concerning drugs.

22 (3) (a) Each year, the first \$125,000 of net proceeds received by the state under subsections (1)(d) and
23 (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice.
24 The department may expend the money in the account only for purposes of enforcement of drug laws. An
25 amount up to \$125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general
26 for enforcement of drug laws. Any expenditure in excess of \$125,000 each fiscal year requires approval through
27 budget amendment, as provided in Title 17, chapter 7, part 4.

28 (b) Each year, net proceeds in excess of \$125,000 that are received by the state under subsections
29 (1)(d) and (1)(e) must be deposited equally between the state special revenue account and the general fund."
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1 **NEW SECTION. Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an
2 integral part of Title 33, chapter 24, and the provisions of Title 33 apply to [section 1].

3 (2) [Section 2] is intended to be codified as an integral part of Title 44, chapter 12, part 2, and the
4 provisions of Title 44 apply to [section 2].

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